

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 711 – HB 854

April 7, 2015

**SUMMARY OF ORIGINAL BILL:** Establishes a Veterans Treatment Court Program (VTCP) and a VTCP Resources Fund to be administered by the Department of Mental Health and Substance Abuse Services (DMHSAS). Requires all VTCPs to be established and operated according to specified key components as adopted by the National Clearinghouse for Veterans Treatment Courts at the National Association of Drug Court Professionals. Revises the disposition of fines pursuant to Tenn. Code Ann. § 55-10-412 to include proceeds from the dedicated portion of the fines for the conviction of any other controlled substance arrest in addition to the fines for driving under the influence (DUI) of an intoxicant to be used by the county for the creation and maintenance of VTCP or Drug Court Treatment Programs (DCTP), or both. In the event no VTCP and no DCTP operates in a county, the proceeds from that county shall be remitted annually to the State to be placed in either the VTCP fund or the DCTP fund.

FISCAL IMPACT OF ORIGINAL BILL:

Other Fiscal Impact – The fiscal impact of the proposed legislation cannot be determined due to various unknown factors. Current programs funded pursuant to Tenn. Code Ann. § 55-10-412 will see a reduction in the amount of money that is available as these funds would now be remitted to the state for the purpose of creating and maintaining Veterans Treatment Court Programs or Drug Court Treatment Programs rather than remaining in the county.

**SUMMARY OF AMENDMENT (005080):** Deletes all language after the enacting clause. Requires all VTCPs to be established and operated according to specified key components as adopted by the National Clearinghouse for Veterans Treatment Courts at the National Association of Drug Court Professionals. Requires the Department of Mental Health and Substance Abuse Services (DMHSAS) to administer VTCPs by (1) defining, developing, and gathering outcome measures for VTCPs; (2) collecting, reporting, and disseminating VCTP data; (3) supporting a state veterans treatment mentor program; (4) sponsoring and coordinating state VTCP training; (5) awarding, administering, and evaluating state VTCP grants; (6) developing standards of operations for VATCPs; and establishing three veterans treatment court advisory committee member positions on the Drug Court Advisory Committee established by Tenn. Code Ann. § 16-22-108. Authorizes a court exercising criminal jurisdiction within Tennessee or a VTCP to apply for VTCP grant funds to fund (1) a full or part time program director position; (2) VTCP staff whose job duties are directly related to program operations; (3) substance abuse treatment, mental health treatment, and other direct services for VTCP participants; (4) drug testing; (5) program costs directly related to program operations; and (6) implement or continue VTCP operations.

Prohibits DMHSAS VTCP grant awards from being used to pay for costs not directly related to VTCP operations; made to any court that does not agree to operate its VTCP in accordance with the principles set out in this chapter; used for construction or land acquisition; used to pay bonuses or commissions to any individuals or organizations; or used to form a corporation.

Increases, from \$75 to \$130, the fee that is assessed in all courts against persons who enter a guilty plea, a plea of nolo contendere, are adjudicated at trial, enter a plea pursuant to a diversionary sentencing statute, or is found in violation of the terms of a suspended sentence. Requires the first \$10 of each such assessment to be used by the Department of Mental Health and Substance Abuse Services (DMHSAS) to fund the DCTP administration and to fund the grant awards as are made by the Department. Requires \$70 of each such assessment to be used by the county for the creation and maintenance of state DCTPs. In the event no DCTP operates in a county, the proceeds from that county shall be remitted annually to the State to be placed in the DCTP Resources Fund. Requires the remaining \$50 to be used by the county exclusively for the operation and maintenance of VTCPs. In the event no VTCP operates in a county, the remainder of the funds from that county shall be remitted annually to the State to be placed in a separate account for the exclusive use of the DMHSAS to assist existing VTCPs and to create and establish VTCPs in areas of Tennessee that have a significant veteran population involved in the criminal justice system.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Increase State Revenue – Exceeds \$232,000/DMHSAS**

**Increase State Expenditures – Exceeds \$232,000/DMHSAS**

**Increase Local Revenue – Exceeds \$297,900**

**Increase Local Expenditures – Exceeds \$297,900**

Assumptions for the bill as amended:

- Currently, a \$75 fee is assessed in all courts against persons who enter a guilty plea, a plea of nolo contendere, are adjudicated at trial, enter a plea pursuant to a diversionary sentencing statute, or is found in violation of the terms of a suspended sentence. The first \$5.00 of each such assessment funds the DCTP administration and funds such grant awards made by the Department of F&A, Division of Office of Criminal Justice Programs. The county uses the remainder of the assessments for the creation and maintenance of state DCTPs. In the event no DCTP operates in a county, the remainder of the funds is remitted annually to the State to be placed in the DCTP Resources Fund.
- The proposed amendment increases, from \$75 to \$130, the drug conviction fee and specifies that the DMHSAS will use the first \$10.00 of the assessment to fund DCTPs.
- Requires \$70 of each such assessment to be used by the county for the creation and maintenance of state DCTPs. In the event no DCTP operates in a county, the proceeds

from that county shall be remitted annually to the State to be placed in the DCTP Resources Fund. This provision is in existing statute.

- Requires the remaining \$50 to be used by the county exclusively for the operation and maintenance of VTCPs. In the event no VTCP operates in a county, the remainder of the funds from that county shall be remitted annually to the State to be placed in a separate account for the exclusive use of the DMHSAS to assist existing VTCPs and to create and establish VTCPs in areas of Tennessee that have a significant veteran population involved in the criminal justice system.
- DMHSAS collected \$117,118 in FY12-13 for the \$5 fee and \$148,165 in FY13-14 resulting in a two-year average of \$132,642. There were approximately 26,528 cases that were assessed the \$75 fee in FY13-14 ( $\$132,642 / \$5.00$ ). Assuming the number of cases remains constant, increasing the portion of the assessment by \$5 to fund DCTPs will result in an additional \$132,640 (26,528 cases x \$5). Estimate assumes the recurring increase in state revenue will exceed \$130,000.
- Assuming the number of cases (26,528) remains constant, the additional \$50 fee to be used for funding VTCPs could result in a possible increase in local revenues.
- Based on a fine collection fee report produced by the Administrative Office of the Courts in FY11-12, the overall collection rate for criminal cases is approximately 29.95 percent. Assuming the collection rate would be similar in these cases, the increase in revenue is estimated to be \$397,257 ( $\$50 \times 26,528 \text{ cases} \times 0.2995$ ).
- Based on information provided by DHMSAS, there are 40 drug courts covering 75 counties. While the exact breakdown of funds between those that will remain with the county and those that will be remitted to the state are unknown, it is estimated that at least 75 percent of the revenue will remain with the counties.
- The recurring increase in revenue and corresponding recurring expenditures for the state is estimated to exceed \$99,314 ( $\$397,257 \times 0.25$ ).
- The total recurring increase in revenue and corresponding recurring expenditures for the state is estimated to exceed \$231,954 ( $\$132,640 + \$99,314$ ).
- The recurring increase in revenue and corresponding recurring expenditures for local government is estimated to exceed \$297,943 ( $\$397,257 \times 0.75$ ).
- The administration and funding of DCTPs was transitioned from the Department of Finance and Administration (F&A), Office of Criminal Justice Programs, to the DMHSAS effective July 1, 2012, therefore the proposed bill would not have a significant impact to F&A.
- According to DMHSAS, the requirements to effectively oversee veterans' treatment courts throughout the state and to develop outcome measures and collect and analyze data will require an additional position. The Department will fund 60 percent of the position from a forthcoming grant. The estimate assumes the Department will use the additional revenues collected to fund the remaining 40 percent of the position.
- The impact on audit requirements for the Comptroller's Office, Division of State Audit, is minimal and will not result in a significant fiscal impact.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink, reading "Jeffrey L. Spalding". The signature is written in a cursive style with a large, stylized "J" and "S".

Jeffrey L. Spalding, Executive Director

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